

IN THE SENATE OF THE UNITED STATES.

MAY 4, 1860.—Ordered to be printed.

Mr. JOHNSON, of Arkansas, made the following

REPORT

[To accompany Bill S. 429.]

The Committee on Public Lands, to whom was referred the petition of Ashton S. H. White, for compensation for services rendered by him as assistant secretary to sign land warrants, under an appointment from the President, having had the same under consideration, submit the following report:

That the papers filed in the case show that, on the 12th of December, 1856, Mr. White was appointed by President Pierce assistant secretary, under the act of January 26, 1848, (United States Statutes, volume 9, page 209,) to sign land warrants, "until the arrears of patents then ready for signature were brought up," (see Exhibit A, herein filed;) and, under this appointment, from the date thereof till the 27th of February, 1857, he signed 54,908 patents, which service, according to the precedent established in the case of H. C. Baldwin, a former assistant secretary, amounted to the sum of \$561 02, as the Commissioner of the General Land Office affirms, who wrote as follows: "Should the Secretary of the Interior determine that the above account (\$561 02) is to be allowed Mr. White, for services rendered by him as assistant secretary to sign land patents, and in addition to his regular salary as a clerk, I certify the charges to be reasonable, and in proportion to the allowance made to Mr. Baldwin, on the 6th of July, 1855."—(Vide Exhibit C, herein filed.)

It is apparent that the appointment was made by the President, with the full knowledge of the fact that Mr. White was a regular clerk in the Interior Department, and that the discharge of his duty as assistant in signing land patents, "till all arrears were brought up," would not interfere with the proper discharge of his duties as a regular clerk in the department, as the latter would be performed in office hours, and the former out of office hours; and Mr. White accepted the appointment with the same understanding; for it is not reasonable to suppose that he or any other regular clerk, receiving a regular salary, would have accepted the appointment to do extra work out of office hours, as well as his regular work in office hours, unless he were to be paid for it, and the precedent established in the previous case of Mr. Baldwin certainly confirms it, and the subsequent language of the President, who appointed Mr. White, also confirms it.

Ex-President Pierce, upon the subject being referred to him, after his term of office had expired, wrote, "That it seems to me that both precedent and justice require that your account should be paid, and if you will bring the facts to the notice of the Hon. Jacob Thompson, Secretary of the Interior, he will do what is right." (See Exhibit D, herein filed.) But the case, with all its facts, having been presented to the Secretary of the Interior, he declined paying the account, assigning as his reason, "that the Attorney General having expressed the opinion that, under existing laws, an officer receiving a salary for services rendered in one capacity, *cannot* be compensated from the treasury for any other services he may be called upon to render, it will not be in my power to admit the claim of Mr. White."—(Vide Exhibit E, herein filed.)

The law upon which the Attorney General based this opinion, and which governed the action of the Secretary of the Interior, was doubtless that of the 26th of August, 1842, (U. S. Statutes, vol. 5, p. 525,) which as a general law is unquestionably of great utility, but as Congress enacted that law as a general prohibition, Congress has the same power to repeal or modify it, by any special act to protect individual rights, and to do justice between the government and its citizens.

And whilst your committee believe that the Secretary of the Interior, in accordance with the opinion of the Attorney General, decided according to the *strict letter* of the law, yet they regard it to be the duty of Congress to grant relief.

Your committee therefore report a bill for the relief of the petitioner, Ashton S. H. White, and recommend its passage.